



April 28, 2005

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Noteworthy

"It's a good faith proposal that I hope Senator Reid will seriously consider. It shows that Senator Frist is going the extra mile to resolve this issue so the Senate can get to work on judges, gas prices and highways."

-Senator Alexander, 4/28/05

"I am pleased to see the Leader today has offered the Fairness Rule compromise proposal. The Leader has been working with Minority Leader Reid for months to reach a compromise, and we have to have a settlement of this issue. The proposal allows for ample debate – 100 hours – and ensures these nominees receive a vote. It protects the president's right to nominate."

-Senator Kay Bailey Hutchison, 4/28/05

Floor Statement: Majority Leader Bill Frist, M.D.
The Fairness Rule Proposal
April 28, 2005

Throughout the judicial obstruction debate, emotions have run high on both sides. This should remind all of us, once again, of the need to return civility to our nation's capital.

The American people want their elected leaders to work together to find solutions. To them -- doing what's Republican or Democrat matters far less than doing what's right for our country.

Let me briefly discuss how we got here.

Never in 214 years -- never in the history of the Senate -- had a judicial nominee with majority support been denied an up-or-down vote...until two years ago.

In the last Congress, the President submitted 34 appeals court nominees to the Senate. A minority of senators denied ten of those nominees -- and threatened to deny another six -- up-or-down votes.

They wouldn't allow votes, because they knew the nominees would be confirmed and become judges. The nominees had the support of a majority of senators.

Now, in this new Congress, the same minority says it will continue to obstruct votes on judges. And, even worse, if they don't get their way, they threaten to shut down the Senate and obstruct government itself.

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Throughout this debate, we have held firm to a simple principle -- judicial nominees deserve up-or-down votes. Vote for them. Vote against them. But give them the courtesy of a vote.

Yet judicial nominees have not been given that courtesy. They've gone 2, 3, even 4 years without a vote. Now 46 seats on the federal bench are vacant -- as case after case and appeal after appeal stack up.

One nominee -- Priscilla Owen -- has served 10 years as a justice on the Texas Supreme court. She won reelection with 84% of the vote in Texas, yet she can't get the courtesy of a vote to be confirmed by the Senate.

Judicial nominees are being denied. Justice is being denied. The solution is simple -- allow Senators to do their jobs and vote.

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In the spirit of civility and with sincere hope for a solution, I make an offer.

This offer will ensure up or down votes on judicial nominees after fair, open, and, some might say, exhaustive debate. It's a compromise that holds to constitutional principles.

First, never in the history of the Senate had a judicial nominee with majority support been denied an up-or-down vote until two years ago. However, it was not unprecedented either for Republicans or Democrats to block judicial nominees in committee.

Whether on the floor or in committee, judicial obstruction is judicial obstruction. It's time for judicial obstruction to end no matter which party controls the White House or the Senate.

The judiciary committee will continue to play its essential oversight and investigative roles in the confirmation process. But the committee -- whether controlled by Republicans or Democrats -- will no longer be used to obstruct judicial nominees.

Second, fair and open debate is a hallmark of the Senate. Democrats have expressed their desire for more time to debate judicial nominees. I respect that request and honor it.

When a judicial nominee comes to the floor, we will set aside up to 100 hours to debate that nomination. Then the Senate as a whole will speak with an up-or-down vote.

The Senate operated this way before we began to broadcast debates on television in 1986. This would provide more than enough time for every Senator to speak on a nominee while guaranteeing that nominee the courtesy of a vote.

Third, these proposals will apply only to appeals court and Supreme Court nominees. Judges who serve on these courts have the awesome responsibility of interpreting the Constitution.

So far, only up-or-down votes on appeals court nominees have been denied. I sincerely hope the Senate minority does not intend to escalate its judicial obstruction to potential Supreme Court nominees.

That would be a terrible blow to constitutional principles and to political civility in America. I hope my offer will make it unnecessary for the minority to further escalate its judicial obstruction.

Fourth, the minority of senators who have denied votes on judicial nominees are concerned that their ability to block bills will be curbed. As Majority Leader, I guarantee that power will be protected.

The filibuster -- as it existed before its unprecedented use on judicial nominees in the last Congress -- will remain unchanged.

Senator Reid and I have been talking almost every day on this issue. And I'm hopeful he'll accept my offer as a solution. It may not be a perfect proposal for either side, but it's the right proposal for America.

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For 70% of the 20th Century, the same party controlled the White House and the Senate. Yet no minority ever denied a judicial nominee with majority support an up-or-down vote until the last Congress.

These minorities showed self-restraint. They treated judicial nominees with fairness. And they respected the Senate's role in the appointments process -- as designed by the Framers of the Constitution.

Resolving the judicial obstruction debate, for me, isn't about politics. This is about constitutional principles. It's about fairness to nominees. It's about Senators doing their duty and doing what's right for our country.

Arbitrarily voting on just a few judicial nominees, as some have proposed, will fail to restore the Senate's 214 year practice of up-or-down votes for all judicial nominees that come to the floor.

Senators have a duty to vote up-or-down on judicial nominees -- confirm them or deny them -- but give them all the courtesy of a vote.

DOMENICI PRAISES FRIST COMPROMISE ON JUDGES

Senator Disappointed Democrats Will Not Consider Proposal

WASHINGTON – U.S. Senator Pete Domenici today praised Senator Majority Leader Dr. Bill Frist (R-Tenn.) for proposing a compromise that would break the stalemate on the filibuster of judges.

However, immediately after Frist proposed the "Fairness Rule", Senate Minority Leader Harry Reid (D-Nev.) rejected it.

The proposal by Frist would require an up-or-down vote on nominees for the Appeals Court and Supreme Court after 100 hours of debate. It would also guarantee that every judge nominated be reported to the full Senate so that nominees cannot be blocked in committee.

"Senator Frist has proposed a fair offer that would allow judges to receive an up or down vote, while also ensuring that judges are not blocked in the Judiciary Committee. This offer would avert a showdown that could have a negative impact on Senate business. I'm very disappointed that Senator Reid and the Democrats are not willing to give this offer any consideration, instead rejecting it outright," Domenici said.

The "Fairness Rule" offered by Frist would allow for substantial debate (100 hours) on judicial nominees, giving Senators who may have concerns about a nominee ample time to convince their colleagues to join them in opposition.

Democrats have expressed concern that Republicans blocked some judges in the Judiciary Committee during President Clinton's tenure. Since blocking judges in

committee has been done to Presidents of both parties, the “Fairness Rule” would ensure that all nominees be reported from the Judiciary Committee, in a timely manner.

Earlier today, Domenici took to the floor to call for an end to judicial filibusters. The Senator said that before the 108th Congress, no judicial nominee that had majority support was defeated due to a filibuster. He also expressed desire that Democrats would agree to a deal so that Republicans did not have to take action to require an up or down vote on judges.

CONTACT: MATT LETOURNEAU
224-7098

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Stevens Supports Frist’s Plan on Judges

Washington, D.C. - Today, Senator Ted Stevens (R-Alaska), President Pro Tempore of the United States Senate made the following statement in support of Senate Majority Leader Bill Frist (R-Tenn.) and his plan to resolve the obstruction to the confirmation of judicial nominees.

“The Majority Leader has set forth a fair and balanced plan to assure full debate on the floor and to guarantee a system for ample time in committee to consider nominees to the Courts of Appeals and the Supreme Court.

As I understand it, the plan lengthens the time the Senate considers such judges and will allow time to fully debate the merits of any nominee. At the same time it will assure the interpretation of our rules, that have been in effect all the years I have been in the Senate, will be maintained in the future.

I fully support our Majority Leader, Senator Bill Frist,” said Stevens.

Contact: Courtney Boone, (202) 224-1028
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SENATOR McCONNELL COMMENTS ON THE FAIRNESS RULE FOR JUDICIAL NOMINATIONS

WASHINGTON, D.C. - U.S. Senator Mitch McConnell released the following statement today in support of the Fairness Rule for judicial nominations, which was proposed by Senate Majority Leader Bill Frist:

“I applaud Senator Frist's leadership to return the Senate to the way it has operated for 214 years. Judges deserve a simple up-or-down vote -- no matter

who the President is -- and I encourage my Democrat colleagues to support the Fairness Rule.”

Contact: Robert Steurer 202-224-8288